

**DETAILED ACTION**

1. Claims 26, 33-36, 39-44, and 49 are pending in the application. Claims 35, 39-44, and 49 have been previously withdrawn from consideration as drawn to a non-election invention.
2. Claims 26, 33, 34, and 36 are under consideration in the instant Office Action.
3. The rejection of claims 26, 33, 34, and 36 under 35 U.S.C. 102(b) as being anticipated by Rosen et al., United States Patent Application Publication No. US 2002/0052308 has been withdrawn in view of the arguments in the claim amendment filed 08/31/2009.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 26, 33, 34 and 36 stand rejected under 35 U.S.C. 102(e) as being anticipated by Lillie et al. (United States Patent Application Publication No. US20030124128A1, filed 06/21/2002; PTO 892).

Lillie et al. teach the nucleic acid sequence of SEQ ID NO: 48 encoding SEQ ID NO: 6 of the instant application (see alignment below), and methods for screening for the presence of breast cancer comprising screening for the said nucleic acid sequence of SEQ ID NO: 48 encoding SEQ ID NO: 6 of the instant application in a subject or biological sample from said subject. Thus, the reference teachings anticipate the claimed invention.

Art Unit: 1652

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RESULT 2
US-10-177-293-48
; Sequence 48, Application US/10177293
; Publication No. US20030124128A1
; GENERAL INFORMATION:
; APPLICANT: Lillie, James
; APPLICANT: Glatt, Karen
; APPLICANT: Zhao, Xumei
; APPLICANT: Gannavarpu, Manjula
; APPLICANT: Kamatkar, Shubhangi
; APPLICANT: Mertens, Maureen
; APPLICANT: Myer, Vic
; APPLICANT: Wang, Youzhen
; APPLICANT: Xu, Yongyao
; APPLICANT: Hoersch, Sebastian
; APPLICANT: Monahan, John
; APPLICANT: Meyers, Rachel E.
; APPLICANT: Bast Jr., Robert C.
; APPLICANT: Hortobagyi, Gabriel N.
; APPLICANT: Pusztai, Lajos
; APPLICANT: Meric, Funda
; APPLICANT: Sahin, Aysegul
; APPLICANT: Mills, Gordon B.
; TITLE OF INVENTION: COMPOSITIONS, KITS, AND METHODS FOR IDENTIFICATION, ASSESSMENT,
; TITLE OF INVENTION: PREVENTION, AND THERAPY OF BREAST CANCER
; FILE REFERENCE: MRI-038
; CURRENT APPLICATION NUMBER: US/10/177,293
; CURRENT FILING DATE: 2002-06-21
; PRIOR APPLICATION NUMBER: US 60/299,887
; PRIOR FILING DATE: 2001-06-21
; PRIOR APPLICATION NUMBER: US 60/301,572
; PRIOR FILING DATE: 2001-06-27
; PRIOR APPLICATION NUMBER: US 60/306,501
; PRIOR FILING DATE: 2001-07-18
; PRIOR APPLICATION NUMBER: US 60/325,002
; PRIOR FILING DATE: 2001-09-25
; PRIOR APPLICATION NUMBER: US 60/362,585
; PRIOR FILING DATE: 2002-03-05
; PRIOR APPLICATION NUMBER: US 60/xxxx,xxx
; PRIOR FILING DATE: 2002-05-14
; NUMBER OF SEQ ID NOS: 506
; SOFTWARE: FastSEQ for Windows Version 4.0
; SEQ ID NO 48
; LENGTH: 1414
; TYPE: DNA
; ORGANISM: Homo sapiens
US-10-177-293-48

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## Alignment Scores:

Pred. No.:	7.47e-211	Length:	1414
Score:	1891.00	Matches:	359
Percent Similarity:	100.0%	Conservative:	0
Best Local Similarity:	100.0%	Mismatches:	0
Query Match:	100.0%	Indels:	0
DB:	8	Gaps:	0

US-10-538-704-6 (1-359) x US-10-177-293-48 (1-1414)

Qy            1 MetSerThrArgAlaLysLysLeuArgArgIleTrpArgIleLeuGluGluGluSer 20  
               |||||||

Art Unit: 1652

Db 277 ATGAGCACCAGAGCCAAGAAGCTGAGGAGGATCTGGAGAATTCTGGAGGAAGAGGAGAGT 336

Qy 21 ValAlaGlyAlaValGlnThrLeuLeuLeuArgSerGlnGluGlyGlyValThrSerAla 40  
|||||||

Db 337 GTTGCTGGAGCTGTACAGACCCCTGCTTCAGGTCCCAGGAAGGTGGCGTCACATCTGCA 396

Qy 41 AlaAlaSerThrLeuSerGluProProArgArgThrGlnGluSerArgThrArgThrArg 60  
|||||||

Db 397 GCCCGCGTCGACGTTGTCGGAGCCTCCGCGGAGGACCCAGGAGAGCCGGACTAGGACCAGG 456

Qy 61 AlaLeuGlyLeuProThrLeuProMetGluLysLeuAlaAlaSerThrGluProGlnGly 80  
|||||||

Db 457 GCCCTGGGCCTCCCCACACTCCCCATGGAGAAGCTGGCGGCCTACAGAGCCCCAAGGG 516

Qy 81 ProArgProValLeuGlyArgGluSerValGlnValProAspAspGlnAspPheArgSer 100  
|||||||

Db 517 CCTCGGCCGGTCTGGGCCGTGAGAGTGTCCAGGTGCCGATGACCAAGACTTCGCAGC 576

Qy 101 PheArgSerGluCysGluAlaGluValGlyTrpAsnLeuThrTyrSerArgAlaGlyVal 120  
|||||||

Db 577 TTCCGGTCAGAGTGTGAGGCTGAGGTGGCTGGAACCTGACCTATAGCAGGGCTGGGGTG 636

Qy 121 SerValTrpValGlnAlaValGluMetAspArgThrLeuHisLysIleLysCysArgMet 140  
|||||||

Db 637 TCTGTCTGGGTGCAGGCTGTGGAGATGGATCGGACGCTGCACAAGATCAAGTGCCGGATG 696

Qy 141 GluCysCysAspValProAlaGluThrLeuTyrAspValLeuHisAspIleGluTyrArg 160  
|||||||

Db 697 GAGTGCTGTGATGTGCCAGCCGAGACACTCTACGACGTCCCTACACGACATTGAGTACCGC 756

Qy 161 LysLysTrpAspSerAsnValIleGluThrPheAspIleAlaArgLeuThrValAsnAla 180  
|||||||

Db 757 AAGAAATGGGACAGCAACGTCATTGAGACTTTGACATGCCGCTTGACAGTCAACGCT 816

Qy 181 AspValGlyTyrTyrSerTrpArgCysProLysProLeuLysAsnArgAspValIleThr 200  
|||||||

Db 817 GACGTGGCTATTACTCCTGGAGGTGTCCAAGCCCTGAAGAACCGTGATGTCATCACC 876

Qy 201 LeuArgSerTrpLeuProMetGlyAlaAspTyrIleIleMetAsnTyrSerValLysHis 220  
|||||||

Db 877 CTCCGCTCCTGGCTCCCCATGGCGCTGATTACATCATTATGAACACTACTCAGTCAAACAT 936

Qy 221 ProLysTyrProProArgLysAspLeuValArgAlaValSerIleGlnThrGlyTyrLeu 240  
|||||||

Db 937 CCCAAATACCCACCTCGGAAAGACTTGGTCCGAGCTGTGTCCATCCAGACGGCTACCTC 996

Qy 241 IleGlnSerThrGlyProLysSerCysValIleThrTyrLeuAlaGlnValAspProLys 260  
|||||||

Db 997 ATCCAGAGCACAGGGCCAAGAGCTGCGTCATCACCTACCTGGCCAGGTGGACCCAAA 1056

Qy 261 GlySerLeuProLysTrpValValAsnLysSerSerGlnPheLeuAlaProLysAlaMet 280  
|||||||

Db 1057 GGCTCCTTACCCAAGTGGGTGGTAATAATCTTCTCAGTTCTGGCTCCCAAGGCCATG 1116

Qy 281 LysLysMetTyrLysAlaCysLeuLysTyrProGluTrpLysGlnLysHisLeuProHis 300  
|||||||

Db 1117 AAGAAGATGTACAAGGCGTGCCTCAAGTACCCCGAGTGGAAACAGAACGACCTGCCTCAC 1176

Qy 301 PheLysProTrpLeuHisProGluGlnSerProLeuProSerLeuAlaLeuSerGluLeu 320  
|||||||

Art Unit: 1652

Db 1177 TTCAAGCCGTGGCTGCACCCGGAGCAGAGCCGTTGCCGAGCCTGGCGCTGTCGGAGCTG 1236  
Qy 321 SerValGlnHisAlaAspSerLeuGluAsnIleAspGluSerAlaValAlaGluSerArg 340  
Db 1237 TCGGTGCAGCATGCGGACTCACTGGAGAACATCGACGAGAGCGCGGTGGCCGAGAGCAGA 1296  
Qy 341 GluGluArgMetGlyGlyAlaGlyGlyGluGlySerAspAspAspAspThrSerLeuThr 359  
Db 1297 GAGGAGCGGATGGCGGCGCGGGCGAGGGCAGCGACGACACCTCGCTCACC 1353

### ***Conclusion***

6. No claims are allowed.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian L Fronda whose telephone number is (571)272-0929. The examiner can normally be reached Monday-Thursday and alternate Fridays between 9:00AM - 5:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nashaat Nashed can be reached on (571)272-0934. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.
8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christian L. Fronda/

Primary Examiner

Art Unit 1652